

NEBRASKA HEALTH AND HUMAN SERVICES SYSTEM



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71-148 License, certificate, or registration to practice a profession; revocation or suspension; unprofessional conduct, defined.

For purposes of section 71-147, unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or occupation or the ethics of the profession or occupation, regardless of whether a person, patient, or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest, including, but not limited to:

- (1) Solicitation of professional patronage by agents or persons, popularly known as cappers or steerers, or profiting by the acts of those representing themselves to be agents of the licensee, certificate holder, or registrant;
- (2) Receipt of fees on the assurance that a manifestly incurable disease can be permanently cured;
- (3) Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a patient;
- (4) Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;
- (5) Cheating on or attempting to subvert the licensing or certification examination;
- (6) Assisting in the care or treatment of a patient without the consent of such patient or his or her legal representative;
- (7) Use of any letters, words, or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that such person is entitled to practice a system or mode of healing for which he or she is not licensed, certified, or registered;
- (8) Performing, procuring, or aiding and abetting in the performance or procurement of a criminal abortion;
- (9) Willful betrayal of a professional secret except as otherwise provided by law;
- (10) Making use of any advertising statements of a character tending to deceive or mislead the public;
- (11) Advertising professional superiority or the performance of professional services in a superior manner;
- (12) Advertising to guarantee any professional service or to perform any operations painlessly;
- (13) Performance by a physician of an abortion as defined in subdivision (1) of section 28-326 under circumstances when he or she will not be available for a period of at least forty-eight hours for postoperative care unless such postoperative care is delegated to and accepted by another physician;
- (14) Performing an abortion upon a minor without having satisfied the notice requirements of sections 71-6901 to 71-6908;
- (15) The intentional and knowing performance of a partial-birth abortion as defined in subdivision (9) of section 28-326, unless such procedure is necessary to save the life of the mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself;
- (16) The providing by a massage therapist of sexual stimulation as part of massage therapy;

- (17) Violating an assurance of compliance entered into under section 71-171.02;
- (18) Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession or occupation of the applicant, licensee, certificate holder, or registrant;
- (19) Failure to keep and maintain adequate records of treatment or service;
- (20) Prescribing, administering, distributing, dispensing, giving, or selling any controlled substance or other drug recognized as addictive or dangerous for other than a medically accepted therapeutic purpose;
- (21) Prescribing any controlled substance to oneself or, except in the case of a medical emergency, to one's spouse or child; and
- (22) Such other acts as may be defined in rules and regulations adopted and promulgated by the board of examiners in the profession of the applicant, licensee, certificate holder, or registrant with the approval of the department.

Nothing in this section shall be construed to exclude determination of additional conduct that is unprofessional by adjudication in individual contested cases.

Source: Laws 1927, c. 167, § 47, p. 466; C.S.1929, § 71-602; Laws 1935, c. 141, § 1, p. 518; C.S.Supp.,1941, § 71-602; Laws 1943, c. 146, § 11, p. 542; R.S.1943, § 71-148; Laws 1979, LB 95, § 2; Laws 1981, LB 466, § 1; Laws 1986, LB 286, § 46; Laws 1986, LB 579, § 38; Laws 1986, LB 926, § 25; Laws 1987, LB 473, § 16; Laws 1988, LB 273, § 9; Laws 1988, LB 1100, § 17; Laws 1991, LB 425, § 11; Laws 1991, LB 456, § 11; Laws 1993, LB 536, § 45; Laws 1994, LB 1210, § 27; Laws 1997, LB 23, § 5.